

**REMARKS**

Claims 1-34 are now pending in the application. Dependent Claims 30-34 have been added.

Claims 1, 12 and 19, the only independent claims, have been amended herein.

Applicants thank the Examiner for the withdrawal of the previous rejections based upon US Patent 5,822,299 (Goodman), US Patent 6,523,068 (Beser et al.) and US Patent 5,095,535 (Freeburg).

Claims 1-29 were now rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,700,875 (Schroeder et al.). In view of the foregoing claim amendments and the following discussion, the rejection based on Schroeder is respectfully traversed and reconsideration is requested.

A method or system in accordance with Applicants' teachings localizes quality of service estimations to specific communications mediums or physical communication paths within a time-invariant communication network. For example, when a CPE (customer premise equipment) device has one and only one unique physical time-invariant communication path, it allows Applicants' approach to function, since such a system has a-priori knowledge of the physical position of the CPE element in relation to the headend or to a test node element inserted into the physical network in the field. This approach allows for localized physical communication medium quality of service segment judgments based on an individual CPE link's performance as it relates to the performance of other CPE devices that must share the same physical communication medium.

While Applicants believe that the original claim language distinguishes over Schroeder and any other cited art, in order to advance the application, to eliminate any issues and to even further distinguish thereover, each of independent Claims 1, 12 and 19 has been further amended herein.

Schroeder is directed to a system for selecting a channel based on channel quality measurements. While the network in Schroeder may include a hierarchical tree network, where each CPE device has one and only one unique physical time-invariant communication path, Schroeder merely describes determining what communication channel parameters [e.g. frequency, modulation, or time slot] will provide the best, or most reliable, communication for a given CPE device. In this way, Schroeder determines what a single device is capable of in the network.

As recited in each of the independent claims, Applicants herein teach how to determine where in the physical communication path signal degradation has occurred. In other words, Applicants' method/system provides a way to physically localize the cause of a network's signal impairment and use this knowledge to repair, or adjust the CPE's communication channel parameters, to allow for delivery of a desired level of QoS. This physical isolation requires that no less than two devices be queried across the network across no less than one shared network element, e.g. a coaxial cable that serves both devices. Applicants' method/system thereby enables localized physical communication medium QoS segment judgments based on an individual CPE link's performance as it relates to the performance of other CPE device's that must share the same physical communication medium.

Schroeder, on the other hand, merely queries individual devices to determine whether they can function at an acceptable QoS level – Schroeder does not teach or even suggest a method or system in that makes a prediction of where or why the network has provided this level of signal fidelity, thus he provides an optimal provisioning of the CPE but does not physically isolate or localize the cause of said reasons for optimization.

Therefore, Applicants respectfully submit that Schroeder fails to teach or suggest a method or system for quality of service *localization* in which the architecture/method allows *localized physical communication medium quality of service segment judgments based on an individual link's performance*, again, as it relates to the performance of other CPE devices that must share the same physical communication medium.

For all of the foregoing reasons, Applicants respectfully submit that each of independent Claims 1, 12 and 19, as amended herein, is patentable over Schroeder and favorable reconsideration is requested.

Claims 2-11, 13-18 and 20-31 are dependent on one or another of independent Claim 1, 12 or 19, and therefore such dependent claims are submitted to be patentable for at least the same reasons as the independent claims from which they depend.

It is respectfully submitted that in regard to the above claim amendments and remarks that the pending application is patentable over the art of record and prompt review and issuance is accordingly requested. Should the Examiner be of the view that an interview would expedite consideration of this amendment or of the application at large, request is made that the Examiner telephone the Applicants' undersigned attorney at (908) 518-7700 in order that any outstanding issues be resolved.

Respectfully submitted,

  
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